

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LANCE K. POULSEN and BARBARA
POULSEN,

Civil Action No. 05CV10575

Plaintiffs,

-against -

HAROLD W. POTE, THOMAS G.
MENDELL and J.P. MORGAN CHASE
& CO.,

Defendants.

PLAINTIFFS' NOTICE OF MOTION TO REMAND
OR IN THE ALTERNATIVE
MOTION FOR ABSTENTION

The Plaintiffs, Lance Poulsen and Barbara Poulsen (collectively "Plaintiffs" or the "Poulsens"), hereby give notice that they caused to be filed a Motion to Remand or in the alternative a Motion for Abstention in this Court, a Statement of Authorities in support of said Motion and a proposed Order.

The Plaintiffs seek remand of the above captioned action to the Supreme Court of the State of New York, County of New York for lack of subject-matter jurisdiction because this action is not "related to" a pending bankruptcy case pursuant to 28 U.S.C. § 1334(b). In the alternative, the plaintiffs move that this Court exercise mandatory abstention pursuant to 28 U.S.C. § 1334(c)(2), permissive abstention under 28 U.S.C. § 1334(c)(1) or grant an equitable remand under 28 U.S.C. § 1452(b) and remand the above captioned action to the Supreme Court of the State of New York, County of New York.

The attached Memorandum of Law in support of the Plaintiffs' Motion to Remand or in the alternative Motion for Abstention and Statement of Authorities is incorporated herein.

Dated: December 27, 2005

Respectfully Submitted,

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s/ Thomas J. Fellig, Esq.

By: Thomas J. Fellig, Esq. (TF-4455)

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Barbara Poulsen

CERTIFICATE OF SERVICE

I hereby certify that on December 27, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel who have registered as CM/ECF participants, and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants as indicated on the service list below.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LANCE K. POULSEN and BARBARA
POULSEN,

Civil Action No. 05CV10575

Plaintiffs,

-against -

HAROLD W. POTE, THOMAS G.
MENDELL and J.P. MORGAN CHASE
& CO.,

Defendants.

ORDER

Having considered the notice of removal of Lance Poulsen and Barbara Poulsen v. Harold W. Pote, Thomas G. Mendell and J.P. Morgan Chase & Co. from the Supreme Court of the State of New York, County of New York, Index No. 05-604034 filed by Harold W. Pote, Thomas G. Mendell and J.P. Morgan Chase & Co. (Paper No.:) and Lance and Barbara Poulsen's Motion to Remand or in the alternative Motion for Abstention to State Court (Paper No.:), and finding good cause for the granting of the Motion to Remand, it is this _____ day of _____, 2006

ORDERED that Lance and Barbara Poulsen's Motion to Remand or in the alternative Motion for Abstention to State Court is GRANTED and it is further

ORDERED that the above captioned action be remanded to the Supreme Court of the State of New York, County of New York for all future proceedings. The Clerk of the United States District Court for the Southern District of New York is directed to Close this case.

Judge
United States District Court
Southern District of New York